

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
455 Golden Gate Avenue, Tenth Floor
San Francisco, CA 94102
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September 24, 2001

Russ Fairles
Research Department
Operating Engineers Local Union No. 3
1620 South Loop Road
Alameda, CA 94502-7090

Re: Public Works Case No. 2001-012
Maintenance and Repair of Heavy Construction Equipment
Clarendon Pump Station Project
Mitchell Engineering

Dear Mr. Fairles:

This constitutes the determination of the Director of Industrial Relations regarding coverage of the above-referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations, section 16001(a). Based upon my review of the documents submitted and the analysis of the relevant facts as presented, I have determined that the maintenance and repair of the heavy construction equipment used on the Clarendon Pump Station construction is a public work within Labor Code sections 1720(a) and 1772.

The City and County of San Francisco entered into a contract with Mitchell Engineering ("Contractor") to construct the Clarendon Pump Station ("the Project"). Construction of this Project required the use of heavy construction equipment, including excavators, backhoes and loaders. To avoid any construction delay, Contractor performed maintenance and all necessary repairs on this equipment during construction.

Labor Code section¹ 1720(a) defines public works to mean: "Construction...or repair work done under contract and paid for in whole or in part out of public funds... ."

Section 1772 states: "Workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work."

In this case, the Project is a public work under section 1720(a) since it is construction being done under contract and paid for with public funds. In addition, Contractor's work on the heavy

¹ All section references are to the Labor Code.

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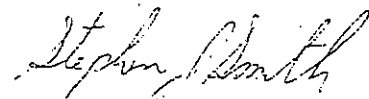
equipment is a public work under section 1720(a) because it is repair, done under contract, and paid for out of public funds.

The work on the heavy equipment is also a public work under section 1772 because Contractor performed the work in execution of the Project.

For the above reasons, the maintenance and repair of the heavy construction equipment on the Project is a public work for which prevailing wages must be paid.

I hope this determination satisfactorily answers your inquiry.

Sincerely,



Stephen J. Smith
Director